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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Revision of the Commission's
Rules to Ensure Compatibility
with Enhanced 911 Emergency
Calling Systems

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)
) CC Docket No. 94-102
)
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To: The Commission

**OPPOSITION OF APCO
TO PETITIONS FOR RECONSIDERATION
OF SECOND MEMORANDUM OPINION AND ORDER**

The Association of Public-Safety Communications Officials-International, Inc. ("APCO") hereby submits the following Opposition to the Petitions filed on January 28, 2000, by the Rural Cellular Association and CorrComm, L.L.C. (referred to herein as "RCA" and "CorrComm," and collectively as "Petitioners") seeking reconsideration of the Commission's *Second Memorandum Opinion and Order*, FCC 99-352 (released December 8, 1999) ("*Second MO&O*") in the above-captioned proceeding.

APCO is the nation's oldest and largest public safety communications organization. Most of APCO's 14,000 individual members are state or local government employees who manage and operate police, fire, emergency medical, forestry conservation, highway maintenance, disaster relief, and other communications systems, including Public Safety Answering Points (PSAPs), that protect the safety of life, health and property. APCO has participated throughout this proceeding with the goal of facilitating rapid implementation of wireless enhanced 9-1-1 systems that will allow

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PSAPs to quickly and accurately identify the location of 9-1-1 calls from wireless telephones.

The Petitioners seek reconsideration of the Commission's modification of the "cost-recovery" provisions in the wireless E9-1-1 rules. Previously, wireless carriers' obligations under those rules were contingent upon there being a state or local government mechanism in place for the recovery of carriers' costs of compliance. The Commission eliminated that requirement in the *Second MO&O* (as APCO had recommended), finding that the carrier-cost recovery requirement had been a major impediment to implementation of the wireless E9-1-1 rules in many states. Thus, the Commission modified the rule to provide that states and other relevant jurisdictions *may* adopt carrier cost-recovery mechanisms, but are not required to do so as a prerequisite for carrier compliance. In jurisdictions lacking formal carrier cost-recovery mechanisms, carriers will recover their costs directly from their subscribers, either as a line-item on their bills or through their overall pricing structure.

Petitioners object to the Commission's cost-recovery action, claiming that it would place undue burden on rural wireless carriers. They argue that their per-subscriber costs of E9-1-1 implementation will be higher than urban carriers, and that the Commission's action somehow precludes states from establishing cost-recovery procedures that might "level the playing field." Presumably, such "leveling" would occur through a cost-recovery pool whereby funds are collected by the state (or other relevant jurisdiction) on a per-subscriber basis, but then distributed to carriers based upon some other formula.

However, the Commission's rules never required that cost-recovery provisions include a pooling mechanism. Indeed, many of the states which had adopted cost-recovery legislation prior to the *Second MO&O* had chosen not to create "pools" and instead provided for distribution of monies to carriers on a per-subscriber basis (e.g., Texas). Granting the RCA and CorrComm petitions, therefore, would not address the problem that the Petitioners perceive. States would still be free to adopt cost-recovery with or without a pooling mechanism. APCO agrees with the Commission that states are in a far better position than the federal government to determine whether carrier cost recovery is necessary, and whether such cost recovery should address perceived differences between urban and rural carriers.

In any event, the per-subscriber cost disparity between urban and rural carriers is likely to be less dramatic than envisioned by the Petitioners, and may be non-existent. All carriers now have the option of using handset-based technologies for Phase II compliance.¹ Unlike network-based technologies, which require modifications to every cell site (including rural sites serving small numbers of subscribers), handset-based technologies involve relatively few changes to a carrier's infrastructure. The major cost involved with handset-based technologies is in the handset itself. As a result, a rural carrier's per-subscriber cost of Phase II compliance via handset-based solutions is likely to be similar to that of an urban carrier.

Finally, APCO strongly objects to RCA's proposal that the Commission grant "expedited waivers" for rural carriers in states that have not adopted carrier cost recovery.

¹ See *Third Report and Order in CC Docket 94-102*, FCC 99-245 (released October 6, 1999). The Commission indicated therein, at ¶23, that handset-based technologies may be particularly appropriate for Phase II compliance in rural areas.

Such a result would be a back-handed reversal of the Commission's *Second MO&O*, and would lead to indefinite delays in E9-1-1 implementation across the nation.


CONCLUSION

For the reasons discussed above, the Commission should dismiss the RCA and CorrComm petitions for reconsideration.

Respectfully submitted,

ASSOCIATION OF PUBLIC-SAFETY
COMMUNICATIONS OFFICIALS-
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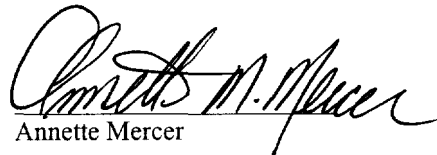
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CERTIFICATE OF SERVICE

I, Annette Mercer, a secretary at the law firm of Shook, Hardy, & Bacon, L.L.P., hereby certify that copies of the foregoing "Opposition of APCO to Petitions for Reconsideration" were served this 22nd day of March 2000, by first-class mail, postage pre-paid, to the following individuals at the addresses listed below:

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